

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

BRIGIDA REYES and NOEMI REYES,	:	
Plaintiffs,	:	REPORT AND
-against-	:	RECOMMENDATION
	:	09 Civ. 10588 (SCR)(LMS)
U.S. BANK NATIONAL ASSOCIATION, et al.,	:	
Defendants.	:	

-----X

TO: THE HONORABLE STEPHEN C. ROBINSON, U.S.D.J.

On December 30, 2009, Plaintiffs, proceeding *pro se*, filed their Complaint. The case was assigned to Your Honor, and by Order of Reference dated January 5, 2010, the case was referred to me for all matters.

On June 3, 2010, a Deputy Clerk for the undersigned sent Plaintiffs a Rule 4(m) notice, copy attached hereto as Exhibit A. The notice gave Plaintiffs 30 days in which to respond. No response was received, and the notice was never returned to the Court as undeliverable. There is no evidence that Plaintiffs have made any efforts to effect service in this case.

Under these circumstances, where service of the summons and complaint has not been made on any Defendant within 120 days of the filing of the Complaint, I respectfully recommend that Your Honor should dismiss this action without prejudice. See FED. R. CIV. P. 4(m). In the event that Plaintiffs provide Your Honor with a submission establishing good cause for their failure to have effected service in a timely fashion, then I respectfully recommend that they be granted no more than 30 days to effect service.

NOTICE

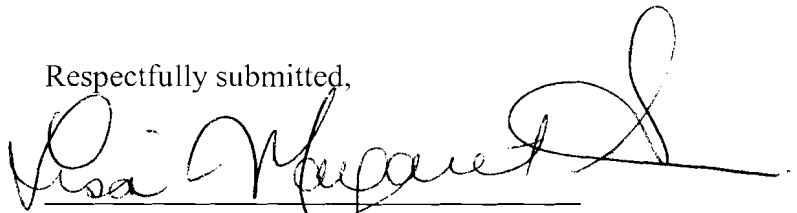
Pursuant to 28 U.S.C. §636(b)(1), as amended, and Fed. R. Civ. P. 72(b), the parties shall have fourteen (14) days, plus an additional three (3) days, pursuant to Fed. R. Civ. P. 6(d), or a total of seventeen (17) working days, see Fed. R. Civ. P. 6(a), from the date hereof, to file written objections to this Report and Recommendation. Such objections, if any, shall be filed with the Clerk of the Court with extra copies delivered to the chambers of The Honorable Stephen C. Robinson at the United States Courthouse, 300 Quarropas Street, White Plains, New York 10601, and to the chambers of the undersigned at the same address.

Failure to file timely objections to this Report and Recommendation will preclude later appellate review of any order of judgment that will be entered.

Requests for extensions of time to file objections must be made to Judge Robinson and should not be made to the undersigned.

Dated: July 8, 2010
White Plains, New York

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lisa Margaret Smith', written over a horizontal line.

Lisa Margaret Smith
United States Magistrate Judge
Southern District of New York

A copy of this Report & Recommendation has been mailed to:

Brigida Reyes
Noemi Reyes
10 Vredenburg Avenue
Yonkers, New York 10704

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
300 QUARROPAS STREET
WHITE PLAINS, NEW YORK 10601

ORIGINAL

Chambers of
Hon. Lisa Margaret Smith
United States Magistrate Judge

June 3, 2010

NOTICE

Brigida Reyes
Noemi Reyes
10 Vredebburg Ave.
Yonkers, New York 10704

The record of the court does not indicate service of the summons and complaint in the matter of **REYES v. U.S. NATIONAL ASSOCIATION** 09 CV 10588 (SCR)(LMS) which was filed on December 30, 2009.

Rule 4(m) of the Federal Rules of Civil Procedure provides (in part):

If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. . . .

Failure to respond to this notice within 30 days may result in the dismissal of this action.

Please direct any inquiry regarding this procedure to the Pro-Se Office of the Court



Lisa M. Denig
Deputy Clerk
United States District Court

